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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,948	09/08/2003	Kailash C. Vasudeva	PAT 51403A-2	9002
26123 7590 08/08/2008 BORDEN LADNER GERVAIS LLP Anne Kinsman WORLD EXCHANGE PLAZA 100 QUEEN STREET SUITE 1100 OTTAWA, ON K1P 1J9 CANADA				
EXAMINER RODRIGUEZ, RUTH C				
ART UNIT 3677		PAPER NUMBER		
NOTIFICATION DATE 08/08/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/656,948

Applicant(s)

VASUDEVA, KAILASH C.

Examiner

RUTH C. RODRIGUEZ

Art Unit

3677

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-22, 28-31 and 91-104 is/are pending in the application.
- 4a) Of the above claim(s) 4-22, 28-31 and 97-102 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 91-96, 103 and 104 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Final Drawing Review (PTO-849)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 15 May 2008 has been entered.

Election/Restrictions

2. Applicant's election with traverse of Invention I, Species II and sub-species 1 (Figs. 26-34 and 43A-46) in the reply filed on 25 April 2005 is acknowledged. The traversal is on the ground(s) that the method of manufacturing the elected flanges should also be examined with the elected flanges. This is not found persuasive because the search required for the flange assembly is found in class 285 but the search required for the method of making the flange assembly is found in class 29. The search of the elected flanges does not require the search of class 29. Therefore, the transversal presented by the Applicant fails to be persuasive.

The requirement is still deemed proper and is therefore made FINAL.

3. The Applicant requests examination of claims 97-102 directed to a method of manufacturing an exhaust flange. The Applicant argues that the method of

manufacturing the elected flanges should also be examined with the elected flanges since the method claims are related to one of the embodiments being examined. This is not found persuasive because the search required for the flange assembly is found in class 285 but the search required for the method of making the flange assembly is found in class 29. The search of the elected flanges does not require the search of class 29. Therefore, the transversal presented by the Applicant fails to be persuasive. Additionally, the claims elected originally by the Applicant are directed to an article and the method claims were non-elected invention. As a result, the claims presented can only be directed to Invention I, Species II and sub-species 1 (Figs. 26-34 and 43A-46) as elected on 25 April 2005.

4. Claims 4-22 and 28-31 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 25 April 2005.

5. Claims 97-102 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 25 April 2005.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 91, 92, 94-96, 103 and 104 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glauser et al. (US 4,081,083 A) in view of Medvick (SU 4,792,162 A).

Glauser discloses a two-part exhaust flange having a first portion (22) and a second portion (25) secured together (Figs. 3 and 4). The exhaust flange extends radially outwardly from a central opening for the first exhaust pipe (Figs. 3 and 4). Glauser fails to disclose that at least one of the first or second portions is manufactured of sintered powdered metal, and the second portion of a metal other than a sintered powdered metal. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the first portion is manufactured of sintered powdered metal and that the second portion is manufactured of a metal other than a sintered powdered metal since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. Especially, since Medvick teaches that the flanges manufactured of sintered powdered metal offer significant reduction in the manufacturing costs and provide a durable structure (C. 7, L. 25-31).

Glauser also discloses that:

- The exhaust flange has an element (25) shaped to receive an annular sealing gasket (29,30).

- The element shaped to receive an annular sealing gasket (29,30) in a recess (28,32) in the exhaust flange.
- One of the first and second portions has a cylindrical recess (where 25 is disposed) in one face thereof coaxial with the central opening (Figs. 1-5). The other of the first and second portions has a cylindrical outer portion fitting within the cylindrical recess (Figs. 3-5).
- The other (25) of the first and second portions has a recess (28,32) therein shaped to receive an annular sealing gasket (Figs. 3-5).

Glauser discloses a two-part exhaust flange having a first portion (22) and a second portion (25) integrated together to form as a sealing member (Figs. 3-5). The , exhaust flange extends radially outwardly from a central opening for the first exhaust pipe (Figs. 3 and 4). Glauser fails to disclose that at least one of the first or second portions is manufactured of sintered powdered metal, and the second portion of a metal other than a sintered powdered metal. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the first portion is manufactured of sintered powdered metal and that the second portion is manufactured of a metal other than a sintered powdered metal since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. Especially, since Medvick teaches that the flanges manufactured of sintered powdered metal offer significant reduction in the manufacturing costs and provide a durable structure (C. 7, L. 25-31).

One of said first and second portions disclosed by Glauser has a cylindrical recess (receiving member 25) in one face thereof coaxial with the central opening (Figs. 3 and 4). The other of the first and second portions (25) has a cylindrical outer portion fitting within the cylindrical recess (Figs. 3 and 4).

8. Claims 91-93, 95, 96, 103 and 104 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohlman. (US 5,944,319 A) in view of Medvick (SU 4,792,162 A).

Kohlman discloses a two-part exhaust flange having a first portion (12 or 14) and a second portion (22) secured together (Fig. 1). The exhaust flange extends radially outwardly from a central opening for the first exhaust pipe (Fig. 1). Glauser fails to disclose that at least one of the first or second portion is manufactured of sintered powdered metal, and the second portion of a metal other than a sintered powdered metal. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the first portion is manufactured of sintered powdered metal and that the second portion is manufactured of a metal other than a sintered powdered metal since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. Especially, since Medvick teaches that the flanges manufactured of sintered powdered metal offer significant reduction in the manufacturing costs and provide a durable structure (C. 7, L. 25-31).

Kohlman also discloses that:

- The exhaust flange has an element (22) shaped to receive an annular sealing gasket (48,50).
- The element shaped to receive an annular sealing gasket (48,50) is a recess (receiving 22) in the exhaust flange.
- One of the first and second portions has a cylindrical recess (where 22 is disposed) in one face thereof coaxial with the central opening (Fig. 1). The other of the first and second portions (22) has a cylindrical outer portion fitting within the cylindrical recess (Fig. 1).
- The other (25) of the first and second portions has a recess (28,32) therein shaped to receive an annular sealing gasket (Figs. 3-5).

Kohlman discloses a two-part exhaust flange having a first portion (12 or 14) and a second portion (22) integrated together to form as a sealing member (Fig. 1). The , exhaust flange extends radially outwardly from a central opening for the first exhaust pipe (Fig. 1). Kohlman fails to disclose that at least one of the first or second portion is manufactured of sintered powdered metal, and the second portion of a metal other than a sintered powdered metal. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the first portion is manufactured of sintered powdered metal and that the second portion is manufactured of a metal other than a sintered powdered metal since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. Especially, since Medvick teaches that the flanges manufactured of sintered powdered

metal offer significant reduction in the manufacturing costs and provide a durable structure (C. 7, L. 25-31).

One of said first and second portions disclosed by Kohlman has a cylindrical recess (receiving member 22) in one face thereof coaxial with the central opening (Fig. 1). The other of the first and second portions (22) has a cylindrical outer portion fitting within the cylindrical recess (Fig. 1).

Response to Arguments

9. Applicant's arguments with respect to claims 91-96, 103 and 104 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Logan (US 2,900,199 A) and Chaplin et al. (US 4,019,371 A) are cited to show state of the art with respect to flanges that have some of the features being claimed by the current application..

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor D. Batson can be reached on (571) 272-6987.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/RCR/
Ruth C. Rodriguez
Patent Examiner
Art Unit 3677

rcr
August 6, 2008

/Robert J. Sandy/
Primary Examiner, Art Unit 3677